

RALPH C. MEMMOTT

IBLA 84-363

Decided September 27, 1985

Appeal from a January 20, 1984, decision by the Utah State Office, Bureau of Land Management, declaring various mining claims abandoned and void. UMC 173799 through UMC 173811.

Set aside and remanded.

1. Federal Land Policy and Management Act of 1976: Recordation of Mining Claims and Abandonment -- Mining Claims -- Abandonment

When a single claim has been recorded with BLM pursuant to 43 U.S.C. § 1744 (1982) on two or more occasions and given two or more mining recordation serial numbers, the proper corrective procedure is to merge the respective files and cancel one or more of the mining claim recordation serial numbers. If, on a combined basis, all requisite filings have been made, the claim should not be conclusively deemed to be abandoned pursuant to 43 U.S.C. § 1744(c) (1982).

APPEARANCES: Ralph C. Memmott, Fillmore, Utah, pro se.

OPINION BY ADMINISTRATIVE JUDGE MULLEN

Ralph Memmott has appealed from a January 20, 1984, decision of the Utah State Office, Bureau of Land Management (BLM), which declared the Cinder Crater No. 8 (UMC 173799), Cinder Crater Nos. 10 through 14 (UMC 173800 through UMC 173804), Red Hill No. 1 (UMC 173805), Garden Rock (UMC 173806), Little Hill No. 1 (UMC 173807), and Bali Hai Nos. 1-4, 1/ (UMC 173808 through 173811) unpatented placer mining claims abandoned and void because no evidence of annual assessment work or notice of intent to hold had been filed in 1980.

On May 5, 1984, notice was given that this Board was suspending consideration of the appeal pending a decision by the United States Supreme Court in United States v. Locke. On April 1, 1985, the Supreme Court rendered an opinion (United States v. Locke, 105 S. Ct. 1785 (1985), and this case once again became ripe for review.

1/ The claims described in the location notices represented by UMC 173808 through UMC 173811 are the Bali Hai Nos. 1 through 3 and Bali Hai No. 6. We assume that these are the claims BLM intended to identify.

In his statement of reasons appellant notes that two sets of mining claim recordation numbers had been issued for the claims. The records now before us support this allegation. The location notices for the following claims describe identical claims, and in some cases are photocopies of the same instrument:

Red Hill No. 1	UMC 110178 and 173805
Bali Hai No. 1	UMC 110181 and 173808
Bali Hai No. 2	UMC 110182 and 173809
Bali Hai No. 3	UMC 110183 and 173810
Bali Hai No. 6	UMC 110186 and 173811

Appellant further alleges the following claims are represented by two mining claim recordation numbers:

Cinder Crater No. 8	UMC 102882 and 173799
Cinder Crater No. 10	UMC 102883 and 173800
Cinder Crater No. 11	UMC 102884 and 173801
Cinder Crater No. 12	UMC 102885 and 173802
Cinder Crater No. 13	UMC 102887 and 173803
Cinder Crater No. 14	UMC 102887 and 173804
Garden Rock	UMC 103226 and 173806
Little Hill No. 1	UMC 102880 and 173807

However, we do not have the files containing the documents for UMC 102880, 102882 through 102887, and 103226 before us. Appellant alleges that evidence of assessment work for these claims has been filed annually for 1980 and subsequent years.

It appears that appellant and/or his co-locators have filed notices of location for certain claims on more than one occasion. As a result more than one mining claim recordation number has been assigned to a single mining claim. When this happens, the proper procedure would be to merge the respective files and make a determination whether, on a combined basis, all of the requisite documents have been filed in a timely manner rather than declaring a claim represented by a specific mining recordation number to be null and void for failure to comply with 43 U.S.C. § 1744 (1982).

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is set aside and the case is hereby remanded to the Utah State Office, BLM, for further action consistent herewith.

R. W. Mullen
Administrative Judge

We concur:

Wm. Philip Horton
Chief Administrative Judge

C. Randall Grant, Jr.
Administrative Judge

